

(ii) U.S. persons must seek authorization from BIS for the export or reexport to a party listed in Appendix A to 31 CFR Chapter V with the bracketed suffix [NPWMD] of any item subject to the EAR that is not subject to OFAC's regulatory authority pursuant to Executive Order 13382.

(iii) Non-U.S. persons must seek authorization from BIS for any export from abroad or reexport to a party listed in Appendix A to 31 CFR Chapter V with the bracketed suffix [NPWMD] of any item subject to the EAR.

(iv) Any export or reexport to a party listed in Appendix A to 31 CFR Chapter V with the bracketed suffix [NPWMD] of any item subject to the EAR and not authorized by OFAC is a violation of the EAR.

(v) Any export or reexport by a U.S. person to a party listed in Appendix A to 31 CFR Chapter V with the bracketed suffix [NPWMD] of any item subject to the EAR that is not subject to regulation by OFAC and not authorized by BIS is a violation of the EAR. Any export from abroad or reexport by a non-U.S. person to a party listed in Appendix A to 31 CFR Chapter V with the bracketed suffix [NPWMD] of any item subject to the EAR and not authorized by BIS is a violation of the EAR.

(3) *Relation to other EAR license requirements.* The license requirements in this section supplement any other requirements set forth elsewhere in the EAR.

(b) *License exceptions.* No license exceptions are available for the EAR license requirements imposed in this section.

(c) *Licensing policy.* Applications for EAR licenses required by this section generally will be denied. You should consult with OFAC concerning transactions subject to OFAC licensing requirements.

(d) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

[74 FR 2357, Jan. 15, 2009]

§ 744.9 Restrictions on certain exports and reexports of cameras controlled by ECCNs 6A003.b.3, 6A003.b.4.b, or 6A003.b.4.c.

(a) *General prohibitions.* In addition to the applicable license requirements for national security, regional stability, anti-terrorism and United Nations embargo reasons in §§ 742.4, 742.6, 742.8, 746.3 and 746.8 of the EAR, a license is required to export or reexport to any destination other than Canada cameras described in ECCNs 6A003.b.3, 6A003.b.4.b, or 6A003.b.4.c if at the time of export or reexport, the exporter or reexporter knows or is informed that the item will be or is intended to be:

(1) Used by a “military end-user,” as defined in paragraph (d) of this section; or

(2) Incorporated into a “military commodity” controlled by ECCN 0A919.

(b) *Additional prohibition on exporters or reexporters informed by BIS.* BIS may inform an exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for the export or reexport of items described in ECCNs 6A003.b.3, 6A003.b.4.b, or 6A003.b.4.c to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the users or unauthorized incorporation into the “military commodities” described in paragraph (a) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration.

(c) *License review standard.* Applications for licenses required by this section will be reviewed by applying the policies that would be applied under the International Traffic in Arms Regulations (22 CFR Parts 120–130).

(d) *Military end-user.* In this section, the term “military end-user” means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard

and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support “military end-uses” as defined in § 744.17(d).

(e) *Exception.* Shipments subject to the prohibitions in paragraphs (a) and (b) of this section that are consigned to and for the official use of the U.S. Government authorized pursuant to § 740.11(b)(2)(ii) of the EAR may be made under License Exception GOV. No other license exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

[74 FR 23948, May 22, 2009; 77 FR 39369, July 2, 2012]

§ 744.10 Restrictions on certain entities in Russia.

(a) *General prohibition.* Certain entities in Russia are included in Supplement No. 4 to this part 744 (Entity List). (See also § 744.1(c) of the EAR.) A license is required, to the extent specified on the Entity List, to export, reexport, or transfer (in-country) any item subject to the EAR to such entities.

(b) *Exceptions.* No License Exceptions apply to the prohibition described in paragraph (a) of this section.

(c) *License review standard.* Applications to export, reexport, or transfer (in-country) items subject to the EAR to these entities will be reviewed with a presumption of denial.

[64 FR 14605, Mar. 26, 1999, as amended at 74 FR 45992, Sept. 8, 2009]

§ 744.11 License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States.

BIS may impose foreign policy export, reexport, and transfer (in-country) license requirements, limitations on availability of license exceptions, and set license application review policy based on the criteria in this section. Such requirements, limitations and policy are in addition to those set forth elsewhere in the EAR. License requirements, limitations on use of license exceptions and license application review policy will be imposed under this section by adding an entity to the Entity List (Supp. No. 4 to this part) with a reference to this section

and by stating on the Entity List the license requirements and license application review policy that apply to that entity. BIS may remove an entity from the Entity List if it is no longer engaged in the activities described in paragraph (b) of this section and is unlikely to engage in such activities in the future. BIS may modify the license exception limitations and license application review policy that applies to a particular entity to implement the policies of this section. BIS will implement the provisions of this section in accordance with the decisions of the End-User Review Committee or, if appropriate in a particular case, in accordance with the decisions of the body to which the End-User Review Committee decision is escalated. The End-User Review Committee will follow the procedures set forth in Supplement No. 5 to this part.

(a) *License requirement, availability of license exceptions, and license application review policy.* A license is required, to the extent specified on the Entity List, to export, reexport, or transfer (in-country) any item subject to the EAR to an entity that is listed on the Entity List in an entry that contains a reference to this section. License exceptions may not be used unless authorized in that entry. Applications for licenses required by this section will be evaluated as stated in that entry in addition to any other applicable review policy stated elsewhere in the EAR.

(b) *Criteria for revising the Entity List.* Entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such entities may be added to the Entity List pursuant to this section. This section may not be used to place on the Entity List any party to which exports or reexports require a license pursuant to § 744.12, § 744.13, § 744.14 or § 744.18 of this part. This section may not be used to place on the Entity List any party if exports or reexports to that party of items that are subject to the EAR are prohibited by or require a license from